SENATE JUDICIARY
Exhibit No. _____11_____ *give no comm.* *Shockley*
Date_____2-16-02_____
Bill No. _____SB 49_____

McGee:
delete section!
and place it
in a
preamble
AND transfer
definitions
into latter
part of
bill

Amendments to Senate Bill No. 49
1st Reading Copy

Requested by Senator ~~Dan McGee~~

For the Senate Judiciary SubCommittee on SB 31 & SB 49

Prepared by Valencia Lane
January 22, 2007 (9:11am)

1. Page 1, line 11.
Following: line 10
Insert: "WHEREAS, the Legislature recognizes that the rights of parents to the custody and control of a child are based upon liberties secured by the United States and Montana Constitutions and that a parent's rights to that custody and control of a child are therefore normally supreme to the interests of other persons; and

WHEREAS, the Legislature also recognizes a growing phenomenon in which absent or otherwise unavailable parents have temporarily surrendered the custody and care of their children to a grandparent or other relative for lengthy periods of time; and

WHEREAS, regardless of the purpose of the absence, a child willfully surrendered to a relative for an extended time period still has the same needs as a child in the care of its parents; and

WHEREAS, in this situation, a caretaker relative assumes responsibilities for the child but has no legal right of control over the child, a situation that interferes in the caretaker relative's ability to perform routine functions of child rearing, including tending to the educational and educationally related medical needs of the child; and

WHEREAS, it is the purpose of the Legislature in these instances to protect the rights of a child granted by Article II, section 15, of the Montana Constitution by granting a caretaker relative limited authority for a child left in the relative's care; and

WHEREAS, it is the intent of the Legislature that a caretaker relative given the responsibility of caring for a child with little or no warning and without any other provision having been made for the child's care, such as the appointment of a guardian or the provision of a power of attorney, be granted authority to enroll the child in school, discuss with the school district the child's educational progress, and consent to an educational service and to medical care for the child related to an educational service without superseding any parental rights regarding the child; and

WHEREAS, [sections 1 and 2] are not intended to affect the rights and responsibilities of a parent, legal guardian, or other custodian regarding the child, do not grant legal custody of the

child to the caretaker relative, and do not grant authority to
the caretaker relative to consent to the marriage or adoption of
the child or to receive notice of a medical procedure, including
abortion, not consented to by the relative, if notice is required
by law, for the child except as expressly provided in [sections 1
and 2]."

2. Page 1, line 14 through page 2, line 18.
Strike: section 1 in its entirety
Renumber: subsequent sections

3. Page 2, line 30.
Strike: "3"
Insert: "2"

4. Page 3, line 3.
Following: line 2
Insert: "(3) For the purposes of [section 2] and this section,
      the following definitions apply:
      (a) "Caretaker relative" or "relative" means an individual
related by blood, marriage, or adoption by another individual to
the child whose care is undertaken by the relative, but who is
not a parent, foster parent, stepparent, or legal guardian of the
child.
      (b) "Caretaker relative educational authorization affidavit"
or "affidavit" means an affidavit completed in compliance with
[section 2].
      (c) "Health care provider" means a person who provides
medical care.
      (d) "Medical care" means care, by a health care provider for
which parental consent is normally required, for the prevention,
diagnosis, or treatment of a mental, physical, or dental injury
or disease when care is needed to prevent serious bodily harm or
death to the child.
      (e) "Parent" means a biological or adoptive parent or other
legal guardian of the child.""

5. Page 6, line 29.
Strike: "2"
Insert: "1"

6. Page 7, line 3.
Following: "1"
Strike: "through 3"
Insert: "and 2"

7. Page 7, line 11.
Strike: "3"
Insert: "2"

8. Page 7, line 13.
Strike: "3"
Insert: "2"

9. Page 7, line 15.
Strike: "3"
Insert: "2"

10. Page 7, line 19.
Strike: "3"
Insert: "2"

11. Page 7, line 23.
Strike: "3"
Insert: "2"

12. Page 9, line 16.
Strike: "3"
Insert: "2"

13. Page 10, line 12.
Following: "[Sections 1"
Strike: "through 3"
Insert: "and 2"

14. Page 10, line 13.
Following: "[sections 1"
Strike: "through 3"
Insert: "and 2"

15. Page 10, line 16.
Strike: "3(4)(a)"
Insert: "2(4)(a)"

16. Page 10, line 18.
Strike: "3(4)(a)"
Insert: "2(4)(a)"

17. Page 10, line 19.
Strike: "3(10)"
Insert: "2(10)"

18. Page 10, line 22.
Following: "parent"
Strike: ", all as defined in [section 1],"

- END -

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